

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

1 June – 3 June 2010

Question: BET 310

Topic: Restrictive covenants

Hansard Page: Written

Senator Eggleston asked:

1. Isn't it odd that the ACCC is muscling up to just the kind of independent competition to the major chains the Restrictive Covenant undertakings are trying to promote and that the site in question sits alongside another force against further Markey concentration being Aldi?
2. How does the Commission plan to proceed with this matter and what are the possible consequences of the current trajectory of this matter?
3. Has the ACCC reconsidered its opinion of the covenant over Ellenbrook?

Answer:

1. The ACCC refers the Committee to the questions on restrictive covenants asked by Senator Bushby at the estimates hearing. In that exchange, the Chairman advised that the only supermarket chain that has not provided a voluntary undertaking in respect of restrictive provisions in supermarket leases was Supabarn. Consistent with the ACCC's position that in general it does not comment on matters that may or may not be under investigation, the Chairman declined to comment further.

Beyond this, the ACCC notes that it undertakes its activities without fear or favour, with a focus on compliance with the law and addressing impediments to competition.

2. As above, in general the ACCC does not comment on matters that may or may not be under investigation.
3. The ACCC has not had cause to revisit the position it had taken on issues raised in relation to the Ellenbrook covenant. The ACCC notes that there are a number of differences between the Ellenbrook matter and its recent activity relating to restrictive provisions in supermarket leases.